



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,572	03/29/2004	Philippe Renard	P24493	9533
7055 7590 03/05/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER BASINGER, SHERMAN D	
			ART UNIT 3617	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		03/05/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/05/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,572	RENARD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sherman D. Basinger	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 18-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 15, 16, 18-28, 30, 33-35, 37-41, 43, 45-52, 54, 61-63, 68, 70-73 and 75 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-7, 9-14, 29, 31, 32, 44, 53, 55-57, 59, 60, 64-67, 69 and 76-78 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 36, 42, 58 and 74 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 10/089,151.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 69, 5, 6, 7, 14, 29, 31, 32, 44, 53, 55, 56, 57, 59, 60, 76, 77 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wojcik in view of Gusdorf et al.

For claim 1, Wojcik discloses in figures 15-17 a hollow surfboard 70 comprising:

a lower half-shell 102 having no lateral side-walls;

an upper half-shell 100 having

downwardly curved

side-walls 100a, said upper half-shell 100 being adapted to support a standing person during use of

the surfboard; and

at least one longitudinal partition 84a and 84b, at least said one longitudinal partition

vertically connecting said lower and upper half-shells;

Wojcik does not disclose that said longitudinal partition consist essentially of foam and that the upper half shell comprises a sheet of foam.

Art Unit: 3617

Wojcik in column 5, lines 36-40 discloses that while ABS is the preferred material for the upper half shell and the core 72 which includes the partition, Wojcik also discloses that a high impact styrene may be used. Gusdorf et al discloses the use of high impact polystyrene foam for the plastic body of his article of furniture. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use a high impact polystyrene foam as the high impact styrene of Wojcik. As such the partition and the upper half shell would be essentially foam and a sheet of foam. Motivation to use high impact polystyrene foam as the high impact styrene of Wojcik is because it can be thermo vacuum formed as desired by Wojcik.

With regard to claim 2, the core 72 of Wojcik has a plurality of partitions.

Wojcik uses thermo forming for the upper sheet 100.

Wojcik, while preferring to thermo form his upper and lower half shells and the core, does suggest other ways of forming them. Thus, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to form at least the lower half shell by injection molding as taught by Wojcik if so desired. Motivation to do so is to take advantages of injection molding.

Wojcik discloses bonding the lower edge of the lateral sidewalls of the upper half shell to the upper surface of the lower half shell; thus, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

Art Unit: 3617

matter pertains to use glue as the bonding material. Motivation to do so is to take advantage of the properties of glue.

Wojcik does not disclose that the core 72 and as such the partition is made of a foam different than that of the sheet of foam of the upper half shell. However, Wojcik does disclose the use of different materials to make the shells and core; thus, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to choose a different foam material for the partition. Motivation to do so is to use a foam material providing a desired characteristic to the partition, the characteristic being different than that desired for the upper half shell.

With regard to claim 76, the longitudinal partition can be considered to be core 72 of Wojcik. When this core 72 including flanges 98 is modified to be made of high impact polystyrene foam as discussed above, this core 72 or partition will have no foam comprised of foam identical to the foam of the partition extending transversely beyond the partition.

With regard to claim 77, the partition can be considered to be 84a of Wojcik alone. This partition 84a is a single wall partition.

For claim 78 Wojcik discloses a hollow surfboard in figures 17-20 comprising:

Art Unit: 3617

a lower half-shell 102 having no lateral side-walls;  
an upper half-shell 100 having downwardly curved side-walls 100a,  
said upper half-shell being adapted to support a standing person during use of the surfboard;  
at least one longitudinal partition core 72, and at least said one longitudinal partition vertically  
connecting said lower and upper half-shells.

Wojcik does not disclose that said longitudinal partition consist essentially of foam and that the upper half shell comprises a sheet of foam.

Wojcik in column 5, lines 36-40 discloses that while ABS is the preferred material for the upper half shell and the core 72 which includes the partition, Wojcik also discloses that a high impact styrene may be used. Gusdorf et al discloses the use of high impact polystyrene foam for the plastic body of his article of furniture. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use a high impact polystyrene foam as the high impact styrene of Wojcik. As such the partition and the upper half shell would be essentially foam and a sheet of foam. Motivation to use high impact polystyrene foam as the high impact styrene of Wojcik is because it can be thermo vacuum formed as desired by Wojcik.

Art Unit: 3617

With regard to the limitation in claim 78 of the foam of the longitudinal partition being different from the foam of the sheet of foam of the upper half-shell, note that the core 72 has a shape different from the shape of the sheet of the upper half shell. Thus, even if both the upper half shell and the core were made from high impact polystyrene foam, the core foam would differ in shape from the foam of the upper half shell.

3. Claims 9-13 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wojcik and Gusdorf et al as applied to claim 1 above, and further in view of Breisch.

Wojcik does not disclose that the partition of the core 72 is made of polypropylene foam. Wojcik discloses using a high impact plastic such as styrene for the core 72 and thus the partition. Breisch discloses the use of polypropylene foam as his thermoplastic foam, such foam being of low density and high stiffness. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use as the core 72 of Wojcik and thus the partition polypropylene foam similar to that used by Breisch. Wojcik desires a plastic of high impact strength that can be thermo vacuum formed. Polypropylene foam meets these standards.

Art Unit: 3617

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to use a polypropylene foam comprising an expanded polypropylene particle foam having a density of approximately 60 kg/m<sup>3</sup> with a compressive stress at 25% of deformation of approximately 350 kpa measured according to ISO standard 844, or having a density of approximately 20-100 kg/m<sup>3</sup> with a compressive stress at 25% of deformation of approximately 100-600 kpa measured according to ISO standard 844. Motivation to do so is to choose a polypropylene foam with the characteristics desired.

4. Claims 64-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paccoret et al.

Paccoret et al discloses an aquatic gliding board comprising a hollow inner shell formed by 22 and 22'; an outer shell formed by 20 and 20'; a casing, bottom filler material 24', of polyvinyl foam between said inner shell and said outer shell; at least one partition 14 extending along a length of the board within said hollow inner shell, said partition being made of a material different from that of the casing 24' (see column 5, lines 45-48).

Paccoret et al does not disclose the bottom casing 24' as comprising at least one layer of a thermoformed extruded polystyrene foam.



Art Unit: 3617

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to form bottom casing 24' of thermoformed extruded polystyrene foam. Motivation to do so is to use a foam which is buoyant and which provides strength.

While Paccoret et al does disclose that the partition is made of a different material than the casing (formed of material similar to the upper and lower board sections which means that the partition is not foam alone), Paccoret et al does not disclose the partition as being made of wood. However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to make the partition of balsa wood as balsa wood offers strength while being very light.

In Paccoret et al the plurality of transversely spaced apart partitions extending along the length of the board are 10 and 12. The width of each of partitions 10 and 12 extend along the length of the board such that each partition 10 and 12 extends along the length of the board.

***Allowable Subject Matter***

5. Claims 8, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 33, 34, 35, 37, 38, 39, 40, 41, 43, 45, 46, 47, 48, 49, 50, 51, 52, 54, 61, 62, 63, 68, 70, 71, 72, 73, and 75 are allowed.

Art Unit: 3617

6. Claims 3, 4, 36, 42, 58 and 74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed January 29, 2007 have been fully considered but they are not persuasive. Applicant argues first, dependent claim 69 - which is rejected over the combination of WOJCIK and GUSDORF - calls for the longitudinal partition (see parent claim 1) to be made of a foam different from the foam of the sheet of foam of the upper half shell (see claim 1). Accordingly, Applicants submit that the combination fails to meet the terms of claim 69. Apparently related to the subject matter of claim 69, the first full paragraph on page 4 of the Office action maintains that because WOJCIK discloses the use of "different" materials for manufacturing the shells and core of his surfboard, it would have been obvious to manufacture a core of a material different from the material of the shells. Applicants submit that there is no evidence that this would have been done or that it would have been obvious that it would have been done. The purported motivation for doing this, which is not a teaching of WOJCIK, is that one could realize a characteristic in the partition that is different from that of the shell. Such a conclusion, of course, is one of a classic hindsight analysis of an invention. It is Applicants who have advanced an advantage to produce a board having a partition with a different characteristic from that of the upper shell, i.e., for enhancing the characteristics of the board. If it were not for Applicants' disclosed

Art Unit: 3617

invention, the public would not have been in possession of the hypothetical feature of WOJCIK upon which the instant rejection is premised.

8. In response to this argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense **necessarily** a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The knowledge that a partition in a surfboard can be made of a different material than the material used to make the upper shell is within the knowledge of one having ordinary skill in the art. The prior of record shows this to be true.

The motivation presented by the examiner for modifying the combination of Wojcik and Gusdorf et al such that the foam used to make the partition is different than the foam used to make the upper half is reasonable. One having ordinary skill in the art would choose the type of foam used because its characteristics match the outcome desired.

Applicant states that new independent claim 78 includes the subject matter of independent claim 1 and the subject matter of claim 69, which is believed to be allowable over WOJCIK and GUSDORF at least for the reason given above.

Art Unit: 3617

In rebuttal, the wording of claim 78 is different than the wording of claim 69. This difference in the wording opens up the possibility for a new grounds of rejection. Claim 78 states "said foam of said longitudinal partition being different from said foam of said sheet of foam of said upper half-shell" (as opposed to the wording for claim 69 which is "said longitudinal partition is made of a foam different from said foam of said sheet of foam of said upper half-shell"). The wording of claim 78 is broader than the working of claim 69. Because the shape of the core 72 of Wojcik is different than the shape of the upper half shell, when both are made using the same foam, the core is different because it is shaped differently.

Applicant continues by arguing that second and, perhaps, most important, is that, in independent claim 1, Applicants call for a

sheet of foam. WOJCIK uses sheets of plastic (such as ABS) which he shapes by using thermo-vacuum forming techniques. By contrast, the "foam" used by GUSDORF is not a sheet of foam, as Applicants specify in independent claim 1, but a polystyrene that is injected into a mold in an

injection molding process together with a foaming agent. Accordingly, one skilled in the art of

would not be taught by GUSDORF to use polystyrene foam to make the WOJCIK surfboard.

Art Unit: 3617

In rebuttal, one can't dismiss the statement by Wojcik that high impact styrene can be used to fabricate his surfboard. Is not high impact polystyrene foam a "high impact polystyrene".

Applicant continues by arguing according to GUSDORF, a plastic foam is not realized until the molded part is removed from the mold; by contrast, in WOJCIK, the ABS plastic sheet is used in a thermo-forming process by starting with a plastic sheet. In view of the foregoing, reconsideration and withdrawal of the rejections based upon WOJCIK and GUSDORF are kindly requested.

In rebuttal, none of the plastic materials used to make a plastic sheet start out as sheets. Could not high impact polystyrene foam be made into a sheet, the sheet then being used to thermo mold the parts of the surfboard of Wojcik? Would not this be within the teachings of Wojcik? Applicant's arguments might have more merit if Wojcik had not disclosed the possibility of using high impact polystyrene to make the sheets used to make the core, upper half and lower half of his surfboard.

Applicant argues that with regard to the combination of WOJCIK, GUSDORF, and BREISCH, Applicants additionally request reconsideration and withdrawal of the rejection of claims 9-13 and 69.

Like GUSDORF, BREISCH teaches the use of a plastic that is injected in an injection molding process with a foaming agent. Although polypropylene is disclosed, BREISCH would not suggest its use in a thermo-forming process like that of WOJCIK, in which plastic foam sheets are

utilized, as explained above in connection with the combination of WOJCIK and GUSDORF.

Lastly, Applicants note that the products disclosed by GUSDORF and BREISCH, i.e., furniture and sawhorses, respectively, are dissimilar to the surfboard of WOJCIK, thereby providing an additional reason for one skilled in the art not to have relied upon the teachings of GUSDORF and/or BREISCH in considering a modification of WOJCIK.

In rebuttal, the materials used to make plastic sheets do not start out as plastic sheets. Even in Wojcik, the materials used to make his plastic sheets which are thermoformed do not start out as plastic sheets. They have to be formed into sheets. This is taught by Wojcik. What Gusdorf et al and Breisch teach are plastic materials which can be formed into sheets for thermoforming. Applicant's arguments would have more merit if the plastics taught by Gusdorf et al and Breisch could not be used to form a sheet which can be thermoformed into the core, upper half and lower half of the surfboard of Wojcik. This argument would be hard to accept in view of what is disclosed in column 5, line 36 of Wojcik.

Applicants kindly request that the rejection of independent claim 64 and dependent claims 65-67 under 35 USC §103(a), as being unpatentable over PACCORET et al. (U.S. Patent No. 4,964,825), be reconsidered and withdrawn.

Independent claim 64 includes every limitation that appears in claim 23 of the patent that issued from the parent application (i.e., US 6,736,689). In addition, claim 64 calls for the partition, within the hollow inner shell to be made of a material different from the thermoformed extruded polystyrene foam of the casing.

In the parent application, the only independent claim in the final Office action prior to allowance was a rejection of application claim 41 (i.e., corresponding to patent claim 23), based primarily upon PACCORET. Following Applicants' arguments advanced in their reply filed on November 26, 2003, the rejection was withdrawn.

The rejection to which Applicants here respond includes the statement that the partition 14 of PACCORET (see Figs. 5, 9, and 10) is made of a material that is different from the

material of the casing (elements 24, 24'). Applicants have found no mention in PACCORET's description that the partition 14 is made of a material different from that of the casings 24, 24'.

In rebuttal, applicant's attention is directed toward column 5, lines 45-48. If the core is made of a similar sandwich construction, the core is made of a different construction. If made of a different construction, the core is made of a different material. Further, casings 24 and 24' of Paccoret are made of different materials. This lends support that

Art Unit: 3617

the material of partition 14 of Paccoret is of a material different than that of the casing. The material of the partition 14 cannot be the same as that of the casings 24 when 24' when casings 24 and 24' are each made of different materials.

Applicant continues by stating that in fact, and contrary to that statement, Applicants submit that column 5, lines 45-48, of

PACCORET explains that the partition (web) 14 is "formed with a sandwich construction similar

to that of the upper and lower board sections," which Applicants submit refers to the constructions that include the casings 24, 24'. Accordingly, it would appear that the rejection is in error in this regard or, at a minimum, relies upon speculation not suggested or taught by PACCORET.

In rebuttal, the examiner is of the opinion that a similar construction is a different construction and leads to a different material. If Paccoret meant that the construction of the web 14 is the same as that of the upper and lower board sections, Paccoret would have used "same" as opposed to "similar". To repeat, casings 24 and 24' of Paccoret are made of different materials. This lends support that the material of partition 14 of Paccoret is of a material different than that of the casing. The material of the partition 14 cannot be the same as that of the casings 24 when 24' when casings 24 and 24' are each made of different materials.



Art Unit: 3617

Applicant further argues that independent claim 64 calls for the casing of Applicants' aquatic gliding board (i.e., the

casing between a hollow inner shell and an outer shell) to comprise a thermoformed layer of extruded polystyrene foam. PACCORET discloses an aquatic gliding board, i.e., a gliding board, such as a sail board or

surfboard. A sandwich structure is prepared, with inner and outer layers in place, from which the board is then assembled. The Examiner explains in his rejection that, in Fig. 1, PACCORET

illustrates an inner shell formed by inner skins 22, 22'; an outer shell formed by skins 20, 20'; and a core/casing 24' between the inner and outer shells.

In column 4, lines 57-65, PACCORET describes the preferred embodiment in which a polyvinyl foam is used. Incidentally, PACCORET describes that polyvinyl foam is used only for

the bottom section of the board. In fact, PACCORET is quite specific in his reason for this asymmetrical use of materials. That is, in lines 63-65, PACCORET explains that "It]his [Diab Barracuda type HT-70 polyvinyl foam] is a closed cell foam that has a very low rate of water absorption in case the board is punctured."

By contrast, Applicants have already explained (see paragraph 0009) that polystyrene foams have the disadvantage of "taking on water" in the event that the outer shell of the board were to be damaged, i.e., the risk of water penetration, whereby the board could be weighed down and the water would be difficult to evacuate from the foam.

Art Unit: 3617

Therefore, Applicants submit that one skilled in the art, when considering the invention as a whole, including the specific comment made by PACCORET that polyvinyl foam is to be used because it has a very low rate of water absorption in case the board were to be punctured, would not likely be led to substitute a foam that would be more water absorbent.

In rebuttal, the material used by Paccoret for the bottom casing 24' is a preference. Not an absolute. Thermoformed extruded polystyrene foam can be chosen over the preferred poly vinyl foam for reasons despite its alleged high water absorption rate.

Applicant continues by arguing that with regard to the comment at the bottom of page 7 of the Office action, Applicants submit

that it is PACCORET itself, not Applicants, who has explained that polyvinyl foam is favored because of its very low rate of water absorption. That is, this comment is that of PACCORET; not speculation by Applicants. Further, it is Applicants' specification, which was prepared prior to any

consideration of any rejection based upon PACCORET, which explains (in paragraph 0009) that

polystyrene is not favored because of its "flaw of taking in water." It is not Applicants' position that polystyrene foam has an absorption rate that is too high to be used in casing 24' of PACCORET; it is Applicants' position that, in view of the disadvantage known regarding polystyrene that one skilled in the art would

Art Unit: 3617

not have been motivated to have made the substitution alleged in the rejection as having been obvious to have modified PACCORET.

At least for the foregoing reasons, Applicants request that the rejection of claims 64-67 on the basis of PACCORET be reconsidered and withdrawn.

In rebuttal, nowhere in Paccoret does Paccoret state that thermoformed extruded polystyrene foam cannot be used to form the casing 24' because thermoformed extruded polystyrene foam has a water absorption rate which is too great for use as casing 24'. It is agreed that if Paccoret made such a statement, it would teach away from using this material to make casing 24' of Paccoret. However, claim 64 would not be allowed because one would have to consider making casing 24 of thermoformed extruded polystyrene foam.

Applicant concludes his arguments with a discussion of new claims 76-78 and why they are allowable. Any arguments with regard to the allowability of new claims 76-78 are moot in view of the new grounds of rejection set forth previously and necessitated by these new claims.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3617

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sherman Basinger  
Primary Examiner  
Art Unit 3617

2/22/07